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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,114	11/18/2003	Roger Grambihler	MFCP.110233	3989

45809 7590 12/05/2006

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(c/o MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
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KANSAS CITY, MO 64108-2613

EXAMINER

HUTTON JR, WILLIAM D

ART UNIT	PAPER NUMBER
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2176

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/715,114	Applicant(s) GRAMBIHLER ET AL.	
	Examiner Doug Hutton	Art Unit 2176	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

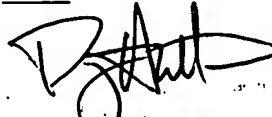
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-8 and 11-32.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.


Doug Hutton
 Primary Examiner
 Technology Center 2100

Continuation of 11. does NOT place the application in condition for allowance because:

In regard to Applicant's arguments that the proposed claim amendments overcome the 101 rejections, the examiner disagrees. While the proposed amendments for the independent claims recite "transmitting the optimized binary representation to external resources" (e.g., see Claim 1, Line 14), the recited "external resources" are not "external" in the sense that electronic information is transmitted across a computer network from one computer on the network to another computer on the network.

In the Specification of the present application, the phrase "external resources" (e.g., see Claim 1, Line 14) is only found in the claims and is not mentioned a single time in the description of the invention. The claims further define the "external resources" as "application programming interfaces" (e.g., see Claim 8, Line 3). While the phrase "application programming interfaces" is mentioned three times in the description of the invention (see Page 9, Paragraph 0034), there is no mention of the "application programming interfaces" being located at a different computer that is connected to the computer network.

Thus, the 101 rejections are maintained.

Applicant's argument that Lewallen does not teach a "binary representation" has already been addressed (see Final Rejection dated 09/11/2006 at Page 22).

Applicant argues that the bridge disclosed in Lewallen is a component that resides on a computer and is therefore not transmitted to an external resource. See Response -- Page 15, first partial paragraph.

The examiner disagrees.

One interpretation of Lewallen includes providing the object table to client APIs, thereby transmitting optimized computer data to external resources.

Applicant argues that there is no motivation to combine Sullivan and Lewallen, because Lewallen is not related to optimizing the storage and transmission of documents formatted in markup languages. See Response -- Page 15, first full paragraph.

The examiner disagrees.

"In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). Both Sullivan and Lewallen are in the field of Applicant's endeavor and are reasonably pertinent to the particular problem with which the Applicant is concerned (e.g., Sullivan includes a system that compresses XML data to optimize the storage and transmission of the data, and Lewallen includes reducing data transmission times and storage requirements by using object tables that include pointers for native operating system objects linked to corresponding Java objects).